

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**IN RE:**

**McCOY 6, LLC,  
  
Debtor.**

**Bankruptcy No. 09-304**

**Chapter 11**

**Document No.**

**Related to Doc. No. 316**

**Hearing Date & Time:  
June 14, 2010 at 11:00 a.m.**

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**IN RE:**

**AUGUSTA APARTMENTS, LLC,  
  
Debtor.**

**Bankruptcy No. 10-303**

**Chapter 11**

**Document No.**

**Related to Doc. No. 113**

**Hearing Date & Time:  
June 14, 2010 at 11:00 a.m.**

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**IN RE:**

**GRAND CENTRAL BUILDING, LLC,  
  
Debtor.**

**Bankruptcy No. 10-638**

**Chapter 11**

**Document No.**

**Related to Doc. No. 55**

**Hearing Date & Time:  
June 14, 2010 at 11:00 a.m.**

**DEBTOR'S RESPONSE TO UNITED STATES TRUSTEE'S MOTION IN  
SUPPORT OF FIRST UNITED BANK AND TRUST FOR APPOINTMENT OF  
TRUSTEES IN RELATED CHAPTER 11 CASES**

**AND NOW**, come McCoy 6, LLC, Augusta Apartments, LLC and Grand Central Building, LLC, the Debtors in the above Chapter 11 Cases, by and through their Counsel, Robert O Lampl, John P. Lacher and Elsie R. Lampl, and file this Response to United States Trustee's Motion in Support of Motion of First United Bank and Trust for Appointment of Trustees in Related Cases as follows:

1. The United States Trustee ("UST") joins in the Motion of First United Bank and Trust ("First United") for the appointment of Trustees in the above Chapter 11 Cases for the following reasons:

- a.) The McCoy 6, LLC Plan is allegedly not feasible;
- b.) Concerns about the amount of pre-petition income to the principals of the Debtors;
- c.) Concerns about the fees paid pre-petition to the Debtors' Counsel;
- d.) Alleged fraudulent conveyances/preferential payments to insiders including a refinance of McCoy 6 property in March, 2007 which provided, in part, funds used to pay off another non-debtor entity's debt.
- e.) Concerns that a proposed settlement includes a release of the Debtors' principals in regard to the PNC loans in the Augusta and McCoy 6 cases.

2. Debtors disagree with the United States Trustee regarding the appointment of Trustees in the above Chapter 11 Cases as follows:
- a.) The McCoy 6, LLC Plan is fair and reasonable to all parties, can be confirmed and should be confirmed. The Debtors have maintained large adequate protection payments during the cases, provide for continued adequate protection pending Plan confirmation (with the exception of First United which is protected by an enormous equity cushion) and set forth a limited, reasonable time frame to complete the Plan;
  - b.) The pre-petition income of Debtors' principals was earned, fair, and reasonable;
  - c.) The fees paid to Debtors' Counsel were warranted, proper and wholly reasonable under the circumstances of the cases;
  - d.) The transfers, conveyances complained of were neither preferential nor fraudulent, including the transfer which the UST calls "the most compelling basis for the appointment of a Chapter 11 Trustee in these cases", i.e. the McCoy 6, LLC March, 2007 refinance with Fifth Third Bank. That transfer was for value in every respect and was made while Debtors were solvent;
  - e.) The release of Debtors' principals in relation to purchase of PNC positions in Augusta and McCoy 6 are for value, wholly

proper and will require Court approval in any event. The fear that creditors are losing out is unwarranted since PNC would have to receive over \$22 million before any other creditor could be paid which, as a practical matter, is impossible rendering the matter irrelevant.

WHEREFORE, it is respectfully requested that the U.S. Trustee's Motion be denied.

Respectfully Submitted,

/s/ Robert O Lampl  
ROBERT O LAMPL  
PA I.D. #19809  
JOHN P. LACHER  
PA I.D. #62297  
ELSIE R. LAMPL  
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**CERTIFICATE OF SERVICE**

Robert O Lampl, John P. Lacher and Elsie R. Lampl, hereby certify that on the 13<sup>th</sup> day of June, 2010, a true and correct copy of the within **DEBTORS' RESPONSE TO UNITED STATES TRUSTEE'S MOTION IN SUPPORT OF FIRST UNITED BANK AND TRUST FOR APPOINTMENT OF TRUSTEES IN RELATED CHAPTER 11 CASES** was served upon the following (*via electronic service*):

Debra Werhman  
Office of the U.S. Trustee  
300 Virginia Street East, Room 2025  
Charleston, WV 25301

/s/ Robert O Lampl  
ROBERT O LAMPL  
PA I.D. #19809  
JOHN P. LACHER  
PA I.D. #62297  
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